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Supreme Court, U.S.
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No. 87-873

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

UNION DE TRANSPORTS AERIENS,

Petitioners,

-against-

ROBERT M. BECKMAN, ESQ.,

Respondent.

RESPONDENT'S OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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25 pp

COUNTER-STATEMENT OF QUESTIONS PRESENTED

I. Does Fed. R. Civ. P. 11 require sanctions for inadvertent errors in a pleading that do not affect the validity of the pleading and which were timely corrected?

II. In reviewing a district court's denial of a motion for Rule 11 sanctions in a case where an attorney's intent is in dispute, is the court of appeals required to make a *de novo* determination of the attorney's state of mind?

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COUNTER-STATEMENT OF THE CASE

This case concerns an editing mistake made by plaintiffs' counsel in the drafting of a lengthy and complex complaint in *Adams v. Pan American World Airways, Inc., et al.*, Civil No. 86- 0304. The complaint contained 345 paragraphs and was 161 pages long. As the court of appeals noted, the complaint "was prepared under extreme time pressures."[1]

There were 11 defendants, nine of which were airlines. As a drafting device, the nine airline defendants

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[1] *Adams v. Pan American World Airways, Inc.*, 828 F.2d 24, 32 (D.C. Cir. 1987).

were referred to by the defined term "airline defendants." In six places in the complaint, the use of the generic term was incorrect because the allegation, which did apply to eight of the nine airline defendants, did not apply to Union de Transport Aeriens (UTA). These allegations related to price fixing by Laker's existing competitors on the North Atlantic. UTA did not operate on the North Atlantic. UTA operated in Europe and the Far East. Plaintiffs' counsel knew this fact. The complaint should have been worded in those six places: "airline defendants except UTA." It was so corrected in a timely manner by an amended complaint before UTA moved for sanctions in the District Court under Fed. R. Civ. P. 11.

The error had no substantive impact on the claims against UTA in the complaint. While UTA did not directly compete with Laker, Laker had proposed to expand its operations into markets UTA was serving, and Laker thus posed a competitive threat to UTA. UTA was deeply involved in the conspiracy to put Laker out of business.

In the prior case, *Laker Airways, Ltd. v. Pan American World Airways*, Civil Nos. 82-3362, 83-416 and 83-2791, discovery had revealed that UTA's chairman had sent telexes to the top executives of eight other airlines suggesting they jointly pressure certain lenders to breach their agreement to provide Laker with necessary financing. UTA's efforts were successful. UTA's actions directly led to the destruction of Laker Airways.[2]

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[2] This evidence is described in an affidavit by plaintiff's counsel Robert M. Beckman, Esquire, the respondent here. The affidavit

On March 7, 1986, UTA and the other defendants in *Adams* filed a joint motion to dismiss alleging that the plaintiffs lacked standing. Then on March 19, 1986, UTA filed a "Supplemental Memorandum" in support of the motion to dismiss, identifying the error in the complaint and arguing that it was an additional ground to dismiss. The supplemental memorandum implied that once the error was corrected, there were no remaining allegations against UTA. This was false.

Plaintiffs' opposition to UTA's supplemental memorandum was filed on April 11, 1986, four days after plaintiffs responded to the main motion to dismiss by all defendants. The supplemental opposition focused on showing the factual basis for alleging that UTA had conspired with the other defendants to destroy the plaintiffs' workplace. This opposition included an affidavit by respondent Beckman reciting in detail the evidence showing that UTA had in fact participated in crucial aspects of the conspiracy to destroy Laker and that Laker was in the process of expanding into UTA's markets in Europe and the Far East. The affidavit further stated, pursuant to Fed. R. Civ. P. 56(f), that discovery was needed to demonstrate that there was a genuine issue of material fact as to whether UTA's participation in the conspiracy was motivated by its fear of Laker's proposed expansion into UTA's markets before the trial court could properly rule on UTA's motion for summary judgment based on UTA's status as a non-competitor of Laker.

The error of including UTA by implication in the price-fixing allegations relating to Laker's existing

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was filed in the District Court and is included here as an appendix.

competitors did not affect the issue of whether the plaintiffs stated a claim against UTA. Accordingly, the plaintiffs' supplemental opposition did not address the error resulting from failing to exclude UTA from the generic term "airline defendants" in six places in the complaint, which counsel regarded as a non-substantive housekeeping matter.

On April 14, 1986, UTA's counsel sent respondent Beckman a demand that he dismiss the lawsuit against UTA, contending again that there was no basis for including UTA as a defendant. UTA's demand did not address the facts shown in plaintiffs' April 11, 1986 opposition concerning UTA's participation in the conspiracy.

On April 28, 1986, plaintiffs filed a motion under Fed. R. Civ. P. 15 to amend the complaint to correct the six places where the complaint erroneously included UTA by implication. The amended complaint also added factual allegations that spelled out UTA's leading role in the conspiracy to destroy Laker's financing.

UTA then filed its motion for Rule 11 sanctions on May 7, 1986. On June 30, 1986, the district court granted the defendants' motion to dismiss but denied UTA's motion for sanctions in a footnote. *Adams v. Pan American World Airways, Inc.*, 640 F. Supp. 683, 686 n.11 (D.D.C. 1986). The court of appeals affirmed the district court on both issues.[3]

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[3] Plaintiffs have petitioned for a writ of certiorari on the issue of their standing to sue. See Adams v. Pan American World Airways, Inc., No. 87-1218.

REASONS FOR DENYING THE WRIT

1. THE FACTS ARE NOT UNDISPUTED AS THE PETITIONER ASSERTS.

As respondent's Counter-Statement of the Case makes clear, UTA's view of what happened in the District Court is far from undisputed. This is not a case of bald and deliberate misrepresentation. It was an editing error made under time pressure that was not caught before the complaint was filed because the error was one of implication, not of express misstatement.

In addition, contrary to UTA, plaintiffs' counsel never "continued to rely on the false assertions in resisting a motion to dismiss the complaint."[4] Rather, plaintiffs' counsel focused on refuting UTA's misleading contention that correction of the error would eliminate it from the case. Plaintiffs' counsel thus set out evidence showing the District Court how UTA had participated in the anti-competitive conspiracy and that UTA was a potential competitor of Laker, and then within a short time made the housekeeping corrections to eliminate UTA from the allegations of price-fixing by the eight other airline defendants.[5] Contrary to UTA's representations here, UTA never made

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[4] UTA Petition for Writ of Certiorari at 3.

[5] UTA thus seriously misleads this court when it asserts that Beckman knowingly used false allegations to defend against the motion to dismiss. Petition for Writ at 11. The errors in the complaint were corrected long before the district court ruled on the motion to dismiss. It was UTA, not Beckman, that tried to capitalize unfairly on the errors in the complaint by using them to argue misleadingly that UTA had no role in the conspiracy against Laker.

a formal demand simply that the errors be corrected but demanded instead that the entire complaint against it be dismissed. Indeed, UTA's position as to the alleged intent of the respondent is nonsensical: There is no motive that would explain why counsel would deliberately make an allegation that his adversary can easily and conclusively disprove. The only possible explanation is simple error.

It was this sharp factual dispute as to the respondent's alleged state of mind that the District Court implicitly resolved against UTA by its terse denial of the motion for sanctions. The District Court Judge, Harold Greene, is well known as a careful and thoughtful judge. In this case, he was familiar with counsel on all sides, having presided over the original *Laker* suit. His decision showed that he viewed UTA's sanctions effort as a meritless tempest in a teapot in which UTA was trying to convert an innocent mistake into something sinister. UTA is still rearguing the same facts that failed to persuade both courts below.

2. THERE IS NO CONFLICT AMONG THE CIRCUITS.

There is no conflict among the circuits as petitioner UTA suggests in the law concerning the scrutiny with which appellate courts review Rule 11 decisions by district courts. UTA misreads the decision of the appellate court below in trying to manufacture a conflict.

The court below, citing the lead case in its circuit, held that it could reverse the district court "only if it abused its 'wide discretion' to determine whether grounds exist to support Rule 11 sanctions." *Adams v. Pan American World Airways, Inc., supra,* 828 F.2d at 32, citing *Westmoreland v. CBS, Inc.,* 770

F.2d 1168, 1174 (D.C. Cir. 1985). This is a reference to the district court's fact-finding role, not to its conclusions of law. The full quotation from the cited passage of *Westmoreland* makes this clear:

> In determining whether factual (1) or dilatory or bad faith (3) reasons exist which may give rise to invocation of Rule 11 sanctions, the district court is accorded wide discretion. For the district court has tasted the flavor of the litigation and is in the best position to make these kinds of determinations. However, once the court finds that these factors exist, Rule 11 *requires* that sanctions of some sort be imposed.

Westmoreland v. CBS, Inc., supra, 770 F.2d at 1174-75 (emphasis in original).[6]

We read the D.C. Circuit's opinions in *Adams* and *Westmoreland* simply to hold that the fact-finding inquiry is subject to review for abuse of discretion, whereas the legal issue of whether specific conduct violates the rule is subject to *de novo* review—once it has been determined what the conduct is.

The circuits that UTA cites as being in conflict with the D.C. Circuit are in fact in accord with this view. The Ninth Circuit, for example, has made an observation about the advantage of the district court very similar to the D.C. Circuit's statement quoted above in *Westmoreland*.

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[6] The court also said that *de novo* review, rather than review for abuse of discretion, would be appropriate where the issue involved the legal sufficiency of the pleading. *Id.*, 770 F.2d at 1175. That is not an issue here.

> [A]lthough this court reviews *de novo* whether particular conduct is sanctionable, it is necessarily handicapped in its review because it is more distant from the parties and events than the district court.

Hudson v. Moore Business Forms, Inc., 827 F.2d 450, 453-54 (9th Cir. 1987). The court went on to say that the district court's personal contact with the attorneys was a factor to weigh in the appellate review process.[7]

The only other circuit cited by UTA as being in alleged conflict with the D.C. Circuit is the Second Circuit. That court, in the case cited by UTA, simply observed: "Where the only question on appeal becomes whether, in fact, a pleading was groundless, we are in as good a position to determine the answer and, thus, we need not defer to the lower court's opinion." *Eastway Const. Corp. v. City of New York*, 762 F.2d 243, 254 n.7 (2d Cir. 1985).

The issue here is very different. UTA's petition for writ of certiorari, as well as all of its arguments in the court below, make plain that its motion for sanctions hinges on the respondent's alleged state of mind.[8] That is an issue of fact, not of law, and no

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[7] The other Ninth Circuit case cited by UTA is in accord with respondent's view of the law. In *Golden Eagle Distributing Corp. v. Burroughs Corp.*, 801 F.2d 1531, 1538 (9th Cir. 1986), the court stated: "[W]hether specific conduct violated the Rule is a legal question which must be reviewed de novo. [citation omitted] If there is any dispute as to factual determinations concerning the conduct, the determinations would be reviewed under a clearly erroneous standard."

[8] For example, the petition for writ of certiorari argues that Beckman's conduct "can hardly be deemed inadvertent." Petition at 4.

court to our knowledge has held that an appellate court that has never seen the respondent lawyer face-to-face can judge *de novo* his state of mind.

3. THE RECORD IS NOT DEVELOPED FOR ADEQUATE REVIEW BY THIS COURT.

The District Court made no express findings on UTA's motion for sanctions. Impliedly, the court simply found the motion for sanctions wholly meritless and gave it appropriately short shrift. As noted above, the facts as to respondent's state of mind and his motive are in sharp dispute. At most, the only relief UTA could request would be an order of remand for the district court to enter findings of fact and explain its reasons for denying sanctions. That would be a useless exercise here. There were multiple appropriate reasons for denying sanctions which were fully briefed in both courts below. Besides the reasons discussed above—that respondent Beckman simply lacked the sinister intent alleged by UTA—another reason is that the errors did not affect the validity of the complaint against UTA.

Rule 11 is directed by its plain language to the overall factual and legal basis for the pleading. It is not aimed at rooting out and sanctioning every error in an otherwise meritorious pleading. As one court held:

> Nothing in the language of the Rule or the Advisory Committee Notes supports the view that the Rule empowers the district court to impose sanctions on lawyers simply because a particular argument or ground for relief contained in a non-frivolous motion is found by the district court to be unjustified.

Golden Eagle Distributing Corp. v. Burroughs Corp., supra, 801 F.2d at 1540-41.

Because UTA participated in the conspiracy against Laker, the error in the complaint gave UTA no grounds to urge dismissal apart from those raised by its fellow conspirators. Therefore UTA was put to no extra work because of plaintiffs' counsel's mistake. A simple denial of the inaccurate allegations in an answer to the complaint would have protected UTA's position.[9] Instead, UTA multiplied the proceedings needlessly by a series of petulant pleadings in the district court, by a meritless appeal, and by this now meritless petition for certiorari.

CONCLUSION

This is not a case where undisputed facts present a clean legal issue to this court for resolution. Rather, the record reflects sharp factual dispute about a lawyer's motive and intent. There is no conflict among the circuits as to the deference by appellate courts to a district court's fact-findings in this peculiarly fact-intensive issue of state of mind. In any case, UTA is the perpetrator, not the victim, of abusive litigation tactics by its continued pursuit of sanctions for an inadvertent error in an otherwise valid complaint that caused UTA no injury.

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[9] In addition, as we noted in both courts below, UTA not once tried to resolve the problem informally. A five-minute telephone call would have straightened out the misunderstanding. That UTA so plainly was pouncing on its adversary's mistakes to seize advantage no doubt affected the district court's decision to deny sanctions.

Respectfully submitted,

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APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DAVID WEAVER ADAMS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action
	)	No.. 86-0304
PAN AMERICAN WORLD AIRWAYS, INC.,	)	
	)	
et al.,	)	
	)	
Defendants	)	
	)	
	)	
JOHN ERIC CLIFTON, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
PAN AMERICAN WORLD AIRWAYS, INC.,	)	
	)	
et al.,	)	
	)	
Defendants.	)	Civil Action
	)	No. 86-0629

AFFIDIVIT OF ROBERT M. BECKMAN
In OPPOSITION TO
UTA'S SUPPLEMENTAL MEMORANDUM

Robert M. Beckman, being duly sworn, states as follows on information and belief based on personal knowledge:

1. I am familiar with the documents produced by UTA and other defendants in response to discovery requests in

Laker Airways Limited v. Pan American World Airways, Civil Action Nos. 82-3362, 83-0416 and 83-2791. These documents were returned to the defendants pursuant to the Settlement Agreement. Copies of certain documents are in public records. In addition, I have notes and recollections of the information developed in discovery in that case.

2. UTA has submitted a document in *Adams v. Pan American World Airways* which it has styled "Supplemental Memorandum of UTA in Support of Defendant's Motion to Dismiss the Complaint." UTA's Supplemental Memorandum asserts that facts alleged in plaintiffs' Complaint are "erroneous". In support of its assertions, UTA submits an affidavit of its counsel, Sanford C. Miller, Esq.

3. On April 7 1986, the undersigned telephoned Mr. Miller and asked for clarification of UTA's intention in submitting an affidavit in support of its Motion to Dismiss under Fed.R.Civ.P. 12(b)(6). The undersigned pointed out to Mr. Miller that the presentation by UTA of matters outside the pleading if not excluded by the court, could lead to the motion being treated as one for summary judgment and disposed of as provided in Rule 56. If UTA's Supplemental Memorandum were to be so treated by the court, then Fed.R.Civ.P. 12(b) provides that "all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56." The undersigned pointed out to Mr. Miller that UTA and the other defendants had moved for a stay of discovery (which the court granted on April 7, 1986, subsequent to the telephone conversation with Mr. Miller). The undersigned explained to Mr. Miller that UTA had placed the plaintiffs on the horns of dilemma. If UTA is seeking summary judgment, the plaintiffs must submit specific facts as would be admissible in evidence to show that there are genuine issues for trial. Plaintiffs are unable to present fully the facts essential to justify their position because discovery is stayed, at the request of UTA and the other defendants.

Mr. Miller declined to clarify UTA's intention or to take any steps to resolve the dilemma.

4. The undersigned believes that it is highly unlikely that the court will consider UTA's factual submission since the court has stayed discovery. However, to be sure that the plaintiffs' position is protected, this affidavit is submitted (1) To satisfy Fed.R.Civ.P. 56(f) which requires an affidavit showing that plaintiffs are unable to present fully the facts that counter the facts set forth by UTA, and (2) to show that there are genuine issues for trial as to UTA's participation in the alleged conspiracy.

5. UTA argues in its Supplemental Memorandum that the "critical factual nexus between UTA and Laker Airways set forth by plaintiffs is erroneous." Supp. Mem. p. 6. UTA does not make clear what this assertion has to do with the issue of standing. It is also unclear what UTA means by a "critical factual nexus."

6. UTA argues that it was not a competitor of Laker Airways. UTA does not state what conclusion it draws from this premise. To the extent that the court would rely on this assertion in disposing of the Motion to Dismiss, this affidavit shows facts that raise genuine issues as to whether UTA and Laker Airways were competitors and as to whether UTA joined the conspiracy to destroy the plaintiffs' workplace, as alleged in the Complaint.

7. Exhibits C and D to Mr. Miller's affidavit show that UTA operated airline service between points in Europe. Those exhibits also show that UTA operated airline service to Australia. Sir Freddie Laker has testified that Laker Airways was planning to provide air transportation within Europe in competition with UTA and was planning to provide air transportation to Australia that would compete with UTA. UTA's President, Mr. Rene Lapautre, has testified under oath in his deposition in the *Laker Airways* case, that he knew that Laker Airways wanted to operate

low fare scheduled service in Europe and that Laker Airways had applied for rights to serve Australia.

8. Mr. Lapautre has testified that on January 28, 1982, he sent a telex message to the Chief Executives of KLM, SAS, Swissair, Lufthansa, Alitalia, British Caledonian, Sabena and Iberia, stating as follows:

> I would like to draw your personal attention on the situation presently developing between Laker and MDC/General Electric by which the two manufacturers would invest 9.4 million USD and have a 18 to 28 percent holding in this carrier. It is totally inacceptable to see two of our main suppliers utilizing funds generated by their main clients to provide direct assistance to the one who very openly and knowingly generated the disastrous crisis which we are in. I suggest we make known to the presidents of McDonnell Douglas and General Electric our opposition to such a move. Could you advise your comments.

9. Sir Adam Thomson, the Chief Executive of British Caledonian, replied to Mr. Lapautre's telex of January 28, 1982 by a telex dated January 29, 1982, stating as follows:

> BCAL has already taken the action you propose. The financial support is much greater than the 9.4 million U.S.D. you mention.

Mr. Lapautre testified that he received this telex from Sir Adam Thomson.

10. On February 2, 1982, Sir Adam Thomson, Chief Executive of British Caledonian, sent copies by telex to the Chief Executives of UTA, KLM, SAS, Swissair, Lufthansa, Alitalia and Sabena of a telex message he sent on February 2, 1982, to Sanford N. McDonnell, Chairman of the Board of McDonnell Douglas, and John Brizendine, President of Douglas Aircraft Co., stating as follows:

> Assuming information supplied by John Gentling to Trevor Boud this morning re MDCs massive support and investment for Laker Airways is correct BCAL has no further interest in McDonnell Douglas aircraft.

Mr. Lapautre testified that he received this telex.

11. Mr. Lapautre testified that on February 2, 1982, Mr. Lapautre sent copies by telex to the Chief Executives of KLM, SAS, Swissair, Lufthansa, Alitalia, British Caledonian, Sabena and Iberia of a telex message he sent on February 2, 1982, to Sanford McDonnell, Chairman of MDC, and Brian Rowe, a Senior Executive of General Electric, stating as follows:

> I am addressing you as a longstanding client of your company with which UTA has done business valued millions of dollars. I am extremely upset by the information about the intended commitment of your company in Laker Airways.
>
> This is a fundamental departing from the established neutral position of every manufacturer which cannot be accepted. Furthermore it is ironical that you would provide direct support to the one who openly and knowingly generated the disastrous crisis which we are in. It would be outrageous to the whole air transport industry and particularly to your clients who are providing funds to your company.
>
> Such a decision from your part would undoubtedly bear consequences on our future relationship and I do hope you will avoid entering such undesirable situation.
>
> Best regards
> R. Lapautre/Chairman

12. Mr. Lapautre testified that he received a telex message on February 2, 1982, from the Chief Executive of Swissair addressed to Mr. Lapautre and the Chief Executives of KLM, SAS, Lufthansa, Alitalia, Sabena, British Caledonian and Iberia, stating as follows:

> Following telex just sent to Sanford N. McDonnell Chairman of Board McDonnell Douglas and J. Brizendine President Douglas aircraft:
>
> "In view of negotiations between MDC and Laker Swissair would like to express deep concern if any debt portion should be converted into any form of equity. Such a move would be detrimental to our current good business relations."

13. Mr. Lapautre testified that he received a telex message on February 3, 1982, from the Chief Executive of Lufthansa addressed to Mr. Lapautre and also to the Chief Executives of KLM, Alitalia, British Caledonian, Sabena and Iberia, stating as follows:

> Subject MDC/GE Salvage Operation vs. Laker
>
> Held telconf yesterday with Sandy McDonnell, Ed Hood and Warren Kraemer. Had visit of James McMillan, President, MDC Finance Corp. today in Frankfurt.
>
> Admittedly bank consortium in its Laker survival plan requires MDC to transform 46 million USD of outstanding debt into nonvoting preferred stock. Further to inject 8 million USD cash into Laker in order to secure immediate liquidity demands and bring him over March and April.
>
> Figures for GE are 10 and 2 million USD respectively.
>
> GE refused for principal reasons involvement of this type with airline but seems prepared to contribute indirectly via MDC. MDC itself feels com-

pelled to protect somehow own risks in magnitude of 50 million USD, disregarding impact on other airlines.

Expressed following position of Lufthansa in a very clear language:

1. Understand financial pressures however are extremely concerned about such business practices resulting in further damage to the industry.
2. Very obviously Laker was poor in private equity but aimed to jeopardize manufacturers main clients with precarious fare policies in a quite presumptuous manner.
3. Sellers credit protection has to be limited to A/C mortgages or similar securities but nothing more. Otherwise Lufthansa will require direct business risk sharing provisions in any future purchase contract with MDC/GE and will cease MDF 100 evaluation with immediate effect.
4. Major clients of MDC/GE directly or indirectly lost much more through Lakers' malpractices than now at stake for the suppliers. Are not prepared to suffer one year longer and continue normal business relations with manufacturers involved!

MDC/GE seemed quite alerted by our interference and promised to review their position in light of arguments presented. There were also a lot of excuses all disregarding impact on airlines. For reasons understandable GE at present seems to react more responsive than MDC.

Will press Airbus Industrie to offer cancellation rights A 300/A 310 without penalty if such right is granted to Laker.

14. Mr. Lapautre testified that he received a telex message on February 3, 1982, from the Chief Executive of Sabena which was also addressed to the Chief Executives of Swissair, KLM, SAS, Lufthansa, Alitalia, British Caledonian and Iberia, stating as follows:

> Please find hereafter copy my telex sent to MDC and GE to the attention of Sanford N. McDonnell, J. Brizendine and Brian Rowe.
>
> "In view of numerous press releases about negotiations between MDC and Laker I wish to express deep concern over the reported attitude you could be adopting which goes beyond a manufacturer's role. Such practices would adversely affect our present good business relationship.
>
> Best regards,
> C. Van Rafelghem"

15. Mr. Lapautre testified that he received a telex message on February 4, 1982, from the Chief Executive of KLM which was also addressed to the Chief Executives of Lufthansa, SAS, Swissair, Alitalia, British Caledonian, Sabena and Iberia, stating as follows:

> Sent following Telex to MDC and GE Attention S. McDonnell, J. Brizendine, B. Rowe
>
> "Please note KLM is deeply concerned about recent reports of planned financial assistance by MDC and GE to Laker Airways. See for instance Wall Street Journal of Jan. 21. According to rumors actual investment will be much higher than dlrs 9.4 Mil as mentioned. Would appreciate learning in how far above info is correct."

16. Mr. Lapautre testified that he received a telex message on February 4, 1982, from the Chief Executive of Alitalia which was also addressed to the Chief Executives of KLM, Lufthansa, Sabena, British Caledonian and Iberia, stating as follows:

I quote telex sent 2 Feb t Sanford McDonnell and General Electric.

"Having received information on your intention to invest a conspicuous amount of capital in Laker Airways I would appreciate your confirming if affirmative. If so I feel obliged to advise you that this move by an aircraft engine manufacturer may have severe consequences on our future decision of choice of suppliers for new equipment. According to my view there is an incompatibility that suppliers become shareholders of their own clients for evident reasons."

17. The foregoing demonstrates UTA's participation in the alleged conspiracy to destroy the plaintiffs' workplace. The undersigned avers that the documents and testimony of the defendants and their alleged co-conspirators will produce more evidence of the complicity of UTA in the alleged conspiracy. The evidence will show that UTA was a driving force in forming the group of MDC and GE customers that made a significant contribution to the destruction of plaintiffs' workplace. These additional facts cannot be product by affidavit because the witnesses and custodians of the documents are hostile parties. The stay of discovery prevents plaintiffs from obtaining further facts.

/s/Robert M. Beckman
Robert M. Beckman (638)

City of Washington : ss
District of Columbia :

Sworn to and subscribed before me this 11th day of April 1986.

Notary Public